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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HAROLD S. FRIEDMAN, JEFFREY FRIEDMAN
and ANGELO PALMIERI

Appeal 2009-001771
Application 10/748,440
Technology Center 3600

Before JOHN C. KERINS, STEVEN D.A. McCARTHY and
KEN B. BARRETT, *Administrative Patent Judges*.

McCARTHY, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

The Appellants appeal under 35 U.S.C. § 134 from the decision of the Examiner finally rejecting claim 1 under 35 U.S.C. § 103(a) as being unpatentable over Lazar (US 4,700,809, issued Oct. 20, 1987), Akira (JP 06-144748 A, publ. May 24, 1994) and Brounn (US 3,631,942, issued Jan. 4, 1972); finally rejecting claim 2 under § 103(a) as being unpatentable over Lazar, Akira, Brounn and Sherwood (US 4,635,756, issued Jan 13, 1987); finally rejecting claims 3-5 under § 103(a) as being unpatentable over Lazar, Akira, Brounn, Sherwood and Norihisa (JP 06-001569 A, publ. Jan. 11, 1994); and finally rejecting claims 6-10 under § 103(a) as being unpatentable over Lazar, Akira, Brounn, Sherwod, Norihisa (JP 06-001569 A, publ. Jan. 11, 1994) and Seki (JP 05-330765 A, publ. Dec. 14, 1993). The Appellants have canceled claim 11. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

Claims 1 and 7 are independent. Claim 1 recites:

1. An elevator cab construction for increasing interior cab size of elevator cab including:
 - (a) shell panels forming the interior walls of the cab with a ceiling and platform.
 - (b) stiffeners on the interior of said shell panels to provide suitable support,
 - (c) vertical corner trim stiffeners in the corners of the cab supporting said shell panel,
 - (d) decorative panels mounted on said shell panels on the interior of said cab and mounted between said stiffeners.

Lazar describes an elevator car 26 including a base 28; two sides 30, 32; a back 34 and a top 36. (Lazar, col. 1, ll. 45-46). Each of the sides 30, 32 includes a flat rectangular sheet metal panel 60, 70. Each of the flat rectangular sheet metal panels 60, 70 forming the two sides 30, 32 has U-shaped channel 66a, 68a; 76a, 78a extending toward the exterior of the elevator car 26 from opposite ends of the panels. (Lazar, col. 2, ll. 20-27 and 46-53). The two sides 30, 32 also include vertical corrugations 69, 79 positioned on the faces of the flat rectangular sheet metal panels 60, 70 between the U-shaped channels 66a, 68a; 76a, 78a on the surfaces of the flat rectangular sheet metal panels 60, 70 extending toward the exterior of the elevator car 26. (Lazar, col. 3, ll. 3-6 and fig.)

Akira discloses an elevator cage in which columns 3 connect the side plates 1 and frames 2 of the cage. Akira also discloses concealing the junctures between the side plates 1 and the frames 2 by means of angled-shaped joints 4. (Akira, paras. [0013]-[0014] and fig. 3).

Brounn describes a cab structure for an elevator car including a floor portion 11; a rear wall 20; a pair of sidewalls 21, 22; and a front wall 23. (Brounn, col. 1, ll. 70-75). The rear wall 20 has a rear rigid frame structure 24 including a top beam member 34; a bottom beam member 35; a pair of end column members 36, 37; and a pair of intermediate column members 38, 39. The members 34-39 of the rear rigid frame structure 24 define a substantially flat surface 40 facing the interior of the cab structure. (Brounn, col. 2, ll. 1-2 and 8-13). Each of the side walls 21, 22 has a rigid frame structure 42, 49 including a top beam 56, 61; a bottom beam 59, 62; a pair of end column members 57, 58; 63, 64 and an intermediate column member 60, 65. The members 56-65 of each of the rigid frame structures 42, 49 define

1 substantially flat surfaces facing the interior of the cab structure. (Brounn,
2 col. 2, ll. 23-25, 30-31 and 38-47).

3 The Examiner finds that Lazar discloses limitations (a) and (b) of
4 claim 1, including the stiffeners on the interior of said shell panels to provide
5 suitable support recited in claim 1. (Ans. 3, para. 2). On the other hand, the
6 Examiner finds that “Lazar is silent concerning vertical corner trim stiffeners
7 in the corners of the cab supporting the shell panel and decorative panels
8 mounted on the shell panels on the interior of the cab and mounted between
9 the stiffeners.” (*Id.*, para. 3). The Examiner concludes that it would have
10 been obvious “to include stiffeners as taught by Akira on the interior of the
11 shell panels disclosed by Lazar to facilitate support.” (Ans. 4, para. 6). The
12 Examiner also concludes that it would have been obvious “to mount
13 decorative panels as taught by Brounn on the shell panels on the interior of
14 the cab and between the stiffeners disclosed by Lazar to provide a decorative
15 finish to the interior of the elevator cab.” (*Id.*, para. 7).

16 The Appellants correctly argue that Lazar does not disclose “stiffeners
17 on the interior of said shell panels to provide suitable support” (App. Br. 5-
18 6) and that the teachings of Akira and Brounn do not make up the deficiency
19 (6-7). Turning first to claim interpretation, it is unreasonable to interpret the
20 limitation “stiffeners on the interior of said shell panels” as being
21 sufficiently broad to encompass stiffeners positioned in hollow spaces within
22 the shell panels or in channels facing the exterior of the elevator cab. The
23 ordinary usage of the term “panel” is sufficiently broad to encompass “a flat,
24 [usually] rectangular piece of construction material . . . made [usually] in a
25 standard size to form part of a surface (as a wall, ceiling, floor).”
26 WEBSTER’S THIRD NEW INT’L DICTIONARY (C&G Merriam Co.

1 1971)(“panel,” entry 2, def. 3b(3)). This ordinary usage is consistent with
2 the usage of the term “panel” in the Specification as well as in Lazar and
3 Sherwood, all of which use the term “panel” to identify structures which are
4 primarily flat rectangular sheet material. (*See* Spec., figs. 3 and 6; Lazar,
5 col. 2, ll. 1-4, 20-22 and 46-48; Sherwood, col. 4, ll. 3-5).

6 The ordinary usage of the term “panel” does not imply the existence
7 of a hollow space or channel in the panel. Furthermore, the preposition “on”
8 rather than “in” introduces the prepositional phrase “on the interior of said
9 shell panels.” It is more reasonable to read the limitation “stiffeners on the
10 interior of the shell panels” as requiring stiffeners on surfaces of the shell
11 panels facing into the interior of the elevator cab rather than as being met by
12 stiffeners in hollow spaces or channels in the shell panels.

13 Although the Specification does not formally define the term “on the
14 interior of said shell panels,” the Specification appears to use phrases such as
15 “[t]he decorative panels 23 are mounted on the interior of the panels 21”
16 (Spec. 12; *see also id.*, fig. 6) and “[t]he stiffeners . . . are applied vertically
17 or horizontally to the inside of the assembled panels” (Spec. 5) to indicate
18 application or mounting on the surfaces of the panels facing the interior of
19 the elevator cab. The Specification also uses the phrase “mounted on the
20 outside of the cab shell” to indicate mounting on the surfaces of the panels
21 facing the exterior of the elevator cab. (*See* Spec. 11; *see also id.*, fig. 6).
22 These passages imply that the meaning of the limitation “stiffeners on the
23 interior of said shell panels” most consistent with the Specification is the
24 interpretation requiring stiffeners on surfaces of the shell panels facing into
25 the interior of the elevator cab.

Therefore, it is unreasonable to interpret the limitation “stiffeners on the interior of said shell panels” as being sufficiently broad to encompass stiffeners positioned in hollow spaces within the shell panels or in channels facing the exterior of the elevator cab. Lazar describes an elevator car 26 having sides 30, 32 including vertical corrugations 69, 79 positioned on the faces of the flat rectangular sheet metal panels 60, 70 between the U-shaped channels 66a, 68a; 76a, 78a on the surfaces of the flat rectangular sheet metal panels 60, 70 extending toward the exterior of the elevator car 26. (Lazar, col. 3, ll. 3-6 and fig.) Since the vertical corrugations 69, 70 lie in a channel facing the exterior of the elevator cab 26, they are not “stiffeners on the interior of the shell panels” as that term is used in claim 1.

The Examiner finds that Akira teaches limitation (c) of claim 1 and that Brounn teaches limitation (d) of claim 1. (Ans. 3-4). The Examiner articulates no apparent reason why the teachings of Akira and Brounn would have provided one of ordinary skill in the art reason to modify the elevator car 26 of Lazar to include “stiffeners on the interior of the shell panels.” As the Appellant points out, neither Akira nor Brounn even disclose “stiffeners on the interior of the shell panels.” Since the teachings of Akira and Brounn fail to remedy the deficiency in the teachings of Lazar, we do not sustain the rejection of claim 1 under § 103(a) as being unpatentable over Lazar, Akira and Brounn.

Sherwood teaches an elevator cab 32 having upstanding side wall portions 34, 36 and an upstanding rear portion 38. (Sherwood, col. 3, ll. 38-42). Each side wall portion 34, 36 is constructed of aluminum wall panel members 50 with ventilation openings 68, 70. (Sherwood, col. 3, ll. 59-62 and col. 4, ll. 21-25). The Examiner reasons in rejecting claim 2 that it

1 would have been obvious “to have openings as taught by Sherwood et al. on
2 the shell panels disclosed by Lazar to facilitate ventilation with the elevator
3 cab.” (Ans. 4). The Examiner has not articulated any reason why the
4 teachings of Sherwood might remedy the deficiencies in the teachings of
5 Lazar, Akira and Brounn. We do not sustain the rejection of claim 2 as
6 being unpatentable over Lazar, Akira, Brounn and Sherwood.

7 Norihisa discloses both a conventional and a preferred cage room for
8 an elevator. Both cage rooms have inner walls 2, 21 and outer walls 10, 29.
9 In both the conventional and the preferred cage rooms, members 6, 25 of
10 convex cross-section are mounted on the surfaces of the inner walls 2, 21
11 facing the exterior of the cage rooms. (Norihisa, paras. [0003]-[0005] and
12 [0009]; *id.*, figs. 1, 3, 5 and 6). The Examiner reasons in rejecting claim 3
13 that it would have been obvious “to vertically attach stiffeners that are
14 vertical and separate strips of stiff material as taught by Norihisa et al. to the
15 shell panels disclosed by Lazar to facilitate stiffening of the shell panels.”
16 (Ans. 5). The Examiner has not articulated any reason why the teachings of
17 Norihisa might remedy the deficiencies in the teachings of Lazar, Akira,
18 Brounn and Sherwood. We do not sustain the rejections of claims 3-5 as
19 being unpatentable over Lazar, Akira, Brounn, Sherwood and Norihisa.

20 Seki discloses a cage room for an elevator having cage side plates 3
21 and reinforcements 9 fixed to the rear faces of the cage side plates 3. Panels
22 4 pressed against the reinforcements 9 cover holes in the cage side plates 3
23 aligned with the reinforcements 9. (Seki, para. 8). The Examiner reasons in
24 rejecting claim 6 that it would have been obvious “to attach the shell panels
25 disclosed by Lazar to a ceiling by a transom riser section offset from the
26 plane of a shell panel as taught by Seki to provide a flush wall surface.”

(Ans. 6-7). The Examiner has not articulated any reason why the teachings of Seki might remedy the deficiencies in the teachings of Lazar, Akira, Brounn, Sherwood and Norihisa. We do not sustain the rejection of claim 6 as being unpatentable over Lazar, Akira, Brounn, Sherwood, Norihisa and Seki.

Claim 7 recites an elevator cab construction including “vertical hat-shaped interior stiffeners formed on said shell panels from said panel material to provide stiffening.” For reasons similar to those discussed in connection with the interpretation of claim 1, this limitation requires stiffeners formed on interior surfaces of the shell panels. Based on this interpretation, the subject matter of claim 7 would not have been obvious from the combined teachings of Lazar, Akira, Brounn, Sherwood, Norihisa and Seki due to the deficiencies in the teachings of Lazar, Akira and Brounn identified in the analysis underlying the decision not to sustain the rejection of claim 1. We do not sustain the rejections of claim 7, or of its dependent claims 8-10, under § 103(a) as being unpatentable over Lazar, Akira, Brounn, Sherwood, Norihisa and Seki.

DECISION

We REVERSE the Examiner’s decision rejecting claims 1-10.

REVERSED

Klh

WYATT, GERBER & O’ROURKE LLP
99 PARK AVENUE
NEW YORK, NY 10016